



CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

'08 MJ 8008

v.

Defendant

GUTILERAZ

1 UNITED STATES OF AMERICA

2 v.

3 Francisco Javier HERNANDEZ-Gutierrez

4 STATEMENT OF FACTS

5 The complainant states that this complaint is based upon statements in the investigative
6 reports by the apprehending Border Patrol Agent Andrew Baldwin, that on January 8, 2008,
7 Francisco Javier HERNANDEZ-Gutierrez, a native and citizen of Mexico was apprehended near
8 Niland, California, as the driver of a white 2001 Freightliner bearing California license,
9 9E05775, as he smuggled (1) one undocumented alien in violation of 8 U.S.C. Section 1324.

10 On January 8, 2008, at approximately 8:50 A.M., a white semi-truck without a trailer
11 approached the Highway 111 primary inspection area. Agent Baldwin identified himself as a
12 U. S. Border Patrol Agent and questioned the driver as to his citizenship. The driver, identified
13 as Francisco Javier HERNANDEZ-Gutierrez stated he was a permanent resident of the United
14 States and handed Agent Baldwin photocopies of his driver's license, resident alien card and
15 social security card. Agent Baldwin then asked for photo identification. HERNANDEZ
16 produced a valid California commercial driver's license. Agent Baldwin referred the vehicle to
17 secondary inspection to run immigration checks on HERNANDEZ.

18 While in secondary inspection, Agent Aguilar approached the vehicle and noticed
19 HERNANDEZ was nervous, as he kept his hands tightly on the steering wheel. Agent Aguilar
20 spoke with HERNANDEZ and requested permission to conduct a canine sniff of the vehicle and
21 its contents. HERNANDEZ stated "yes" and exited the vehicle. Agent Aguilar received a
22 positive alert on the vehicle and searched the interior of the vehicle. Agent Aguilar stated that he
23 had found a person, later identified as Marcos ALONSO-Dominguez, hidden inside the cab in
24 one of the storage compartments of the vehicle.

25 Agent Aguilar identified himself as a U. S. Border Patrol Agent and questioned ALONSO
26 as to his citizenship. The ALONSO admitted that he was a Mexican citizen and he had no
27 documentation to live, work or reside in the United States. HERNANDEZ and ALONSO were
28 placed under arrest.
29

Record checks revealed HERNANDEZ revealed that he was arrested on May 25, 2007, at the Highway 86 Border Patrol Checkpoint for smuggling 10 illegal aliens in a tractor-trailer. HERNANDEZ was convicted in the Southern District of the United States District Court and sentenced to 15 months prison. HERNANDEZ stated he was to turn himself in next Tuesday to begin serving his sentence.

Material Witness Marcos ALONSO-Dominguez stated he did not have documents to enter the United States. ALONSO entered into the United States January 7, 2008, by jumping over the fence from Mexicali, Mexico, into Calexico, California. ALONSO stated his family made the arrangements for him to be smuggled to Los Angeles, California. HERNANDEZ claimed his brothers were going to pay approximately \$2,000.00 to an unknown person.

ALONSO was shown a six-pack photo line-up and was able to positively identify HERNANDEZ as the driver of the tractor-trailer. ALONSO identified photo number five as HERNANDEZ.

The complainant states that the names of the Material Witnesses are as follows:

<u>NAME</u>	<u>PLACE OF BIRTH</u>
Marcos ALONSO-Dominguez	Mexico

Further, complainant states that Marcos ALONSO-Dominguez, is a citizen of a country other than the United States; that said alien have admitted that they are deportable; that their testimony is material, that it is impracticable to secure their attendance at the trial by subpoena; and they are material witnesses in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144.